SUMMARY REPORT OF INVESTIGATION¹

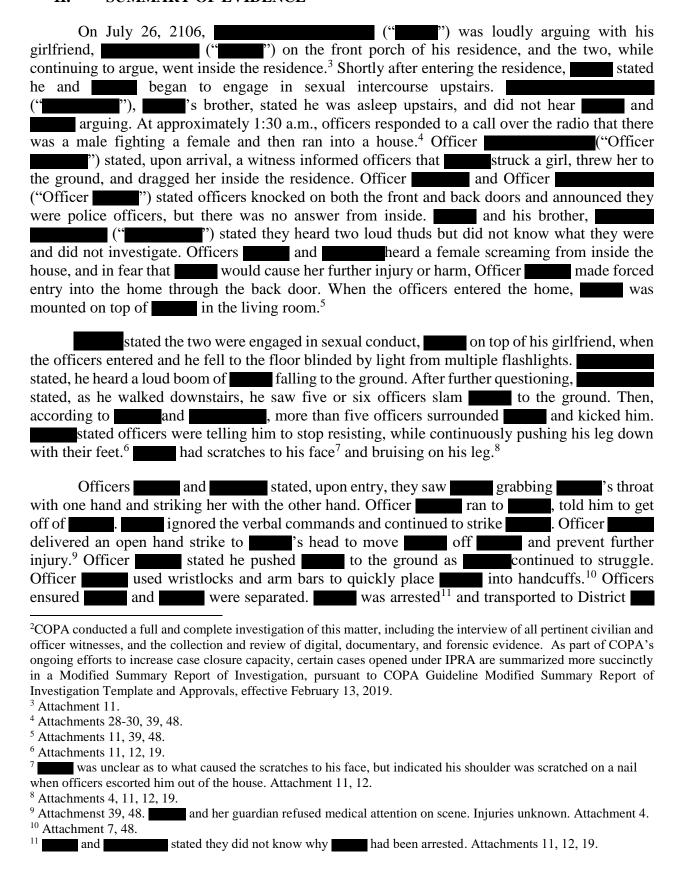
Date/Time/Location of Incident:	July 26, 2016, 1:45 a.m.,
Date/Time of COPA Notification:	July 26, 2016, 3:27 p.m.
Involved Officer #1:	Date of Appointment: 2001, PO, Unit DOB: 1974, Male, White
Involved Officer #2:	Date of Appointment: 2013, PO, Unit DOB: 1988, Male, White
Involved Individual #1:	, DOB: , 1999, Male, Black
Case Type:	Excessive Force

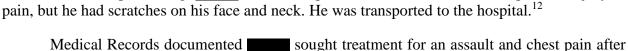
I. ALLEGATIONS

Officer	Allegation		Finding
Officer	The complainants alleged that on 26 approximately 0145 hours, at Street, you:	6 July 2016, at	
	1. forced entry to amaging a door and windows,	residence,	Exonerated
	2. threw to	the floor, and	Not Sustained
	3.kicked and legs.	bout the body	Not Sustained
Officer	The complainants alleged that on 26 approximately 0145 hours, at Street, you:	5 July 2016, at	
		residence,	Exonerated
	2. threw to	the floor, and	Not Sustained
	3.kicked all and legs.	bout the body	Not Sustained

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

II. SUMMARY OF EVIDENCE²





Police Station for processing. 's Arrest Report documents he did not complain of injury or

Medical Records documented sought treatment for an assault and chest pain after he was released from police custody. Treceived a chest x-ray, lower extremity x-ray, and was discharged with a prescription for Ibuprofen. 13

III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or
- 4. <u>Exonerated</u> where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

IV. ANALYSIS AND CONCLUSION



COPA finds the allegation that Officer forced entry to a serious serious serious serious canading a door and windows, is **Exonerated**. An officer may enter an individual's residence without consent or a warrant under exigent circumstances, such as injury, or danger of injury, to

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¹² Attachment 4. No medical records provided that documented this hospital visit.

¹³ Attachment 15.

the occupant or danger posed by the occupant to others. ¹⁴ The key question is whether it was "reasonable for the police officers on the scene to believe, in light of the circumstances they faced, that there was a compelling need to act and no time to obtain a warrant." ¹⁵ In this case, officers had information that a battery was in progress, a male hit and dragged a female inside the residence, no one answered the officers' knocks on the door, officers heard a female screaming inside, and believed someone may be injured inside. Officer kicked the door in and the officers entered the residence. Based on the foregoing, it is clear that exigent circumstances existed, and it was reasonable for Officer to force entry into "s residence. Therefore, this allegation is Exonerated .
COPA finds the allegation that Officers and engaged in misconduct by throwing to the floor is Not Sustained because there is conflicting evidence regarding how got to the ground or what he was doing at the time. It stated that he and were engaged in sexual conduct and he fell to the ground when officers entered the house. While Officers and stated was on top of choking and hitting her. Officer stated he used an open hand strike to shead, then forcefully pulled off and pushed him to the ground. Officer went to the ground in response Report did not describe a takedown. Officer believed went to the ground in response to Officer so spen hand strike. It stated five or six officers slammed to the ground, but could not say what was doing at the time. There are no independent witness statements or video to corroborate the incident as described by or the officers. Specifically, COPA was unable to interview significant and incomplete, and therefore less credible. However, there is insufficient evidence to determine, on a clear and convincing standard, whether Officers and violated policy and procedure by throwing to the ground. Therefore, this allegation is Not Sustained.
COPA finds the allegation that Officers and kicked about the body and legs is Not Sustained . It is stated he was looking up at officers from the ground, while officers were yelling stop resisting. It is and it is stated officers kicked and/or stomped on its leg causing bruising. Officer admitted he struggled with on the ground, but both Officer and denied kicking or seeing an officer kick. There are no independent witness statements or video to corroborate the incident as described by or the officers. Therefore, this allegation is Not Sustained .
Approved:
September 26, 2019
Andrea Kersten Deputy Chief Administrator – Chief Investigator Date

¹⁴ U.S. v. Williams, 79 F.Supp.3d 888, 894 (2015), quoting Sutterfield v. City of Milwaukee, 751 F.3d 542, 557 (7th Cir.2014).

¹⁵ Sutterfield v. City of Milwaukee, 751 F.3d 542, 557 (7th Cir.2014).

Appendix A

Assigned Investigative Staff

Andrea Kersten